IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 6358 of 2005

Between:

The Hyderabad Cooperative Central Trading Society Ltd. Rep by its General Manager E.Yadagiri. S/o.E.Mallaiah
5-8-655, Nampally Station Road, Hyderabad R/o.Hyderabad.

..... PETITIONER

AND

1 The Second Appellate Authority under Section 48 (3)
A.P.Shops & Establishments Act 1988 and the Dy.Commissuioner of labour, Hyderabad (Twin Cities) T.Anjaiah Shramika Bhavan,
RTC Cross Roads, Hyderabad-20
2 The Appellate Aauthority under Section 48(1) of
A.P.Shops & Establishments Act 1988 & the Asst.Commissioner of labour, Hyderabad- III T.Anjaiah Shramika Bhava
RTC Cross Roads, Hyderabad-20
3 Ch.Laxman Rao S/o.Chandraiah
R/o.1-6-185/B, Parsigutta Musheerabad, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the 1st respondent in S.A.No.3 of 2004 and issue an appropriate Writ, order or direction particularly one in the nature of Writ of Certiorari and quash the order passed 1st respondent S.A.No.3 of 2004 dt.24-1-2005, holding the same as illegal, unjust, contrary to law and perverse and grant all consequential benefits and pass such other order or orders.

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents: GP FOR LABOUR

The Court, at the admission stage, made the following :

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 6358 of 2005

ORDER:

To call for the records from the 1st respondent-Second Appellate Authority and the Deputy Commissioner of Labour, Hyderabad, in S.A.No.3 of 2004, dated 24-01-2005 and for issuing an appropriate writ or direction, the present writ petition has been filed.

2. Sri A.K.Jayaprakash Rao, learned counsel for the petitioner vehemently contended that the 2nd respondent-First Appellate Authority and the Assistant Commissioner of Labour, Hyderabad-III, after considering the entire documents and the record of the primary authority, passed an order in S.E.No.25 of 2000, dated 16-03-2002. But, the same was reversed by the 1st respondent without any basis.

3. I have perused the record.

4 . The operative portion of the impugned order passed by the 1st respondent is as follows:

> "..Accordingly, the orders of the Lower Authority in S.E.No.25 of 2002 are quashed. The appeal is remitted the matter to the Lower Authority for conducting fresh enquiry, after taking evidence and marking documents, if any and dispose of the same within a period of three months from the date of receipt of the order..."

5. Admittedly, as seen from the record before the primary authority, no evidence was let in and no documents were marked to show the nature of duties performed by the 3rd respondent in the capacity of Assistant Business Manager, and that is the reason why the 1st respondent remanded the matter to

the 2nd respondent to take evidence.

6. But, the petitioner is aggrieved by the observations made by the 1st respondent, which will come in the way of the petitioner, at the time of conducting the enquiry. Therefore, it is made clear that any observations made by the primary authority or the 1st respondent shall not have any bearing in disposal of the case and uninfluenced by any observations made in the orders of the primary authority and the 1st respondent, the 2nd respondent shall dispose of the case within a period of three months from the date of receipt of a copy of this order after taking necessary evidence and marking documents.

7. With the aforementioned observations, the writ petition is disposed of. No costs.

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March 25, 2005

Note:

Issue C.C. in three days.

B/o.

KVR

To

1 The Second Appellate Authority under Section 48 (3)
A.P.Shops & Establishments Act 1988 and the Dy.Commissuioner of labour,
Hyderabad (Twin Cities) T.Anjaiah Shramika Bhava
RTC Cross Roads, Hyderabad-20

2 The Appellate Aauthority under Section 48(11) of
A.P.Shops & Establishments Act 1988 & the Asst.Commissioner of labour,
Hyderabad- III T.Anjaiah Shramika Bhava
RTC Cross Roads, Hyderabad-20.

3. Two C.Cs to the GP for Labour, AP High Court Buildings,

High Court of AP, Hyderabad (O.U.T.)

4 2 CD copies.